

U.S. Fish and Wildlife Serv., Interior

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(d) In addressing a situation where prioritized allocation becomes necessary, the Board shall solicit recommendations from the Regional Council in the area affected.

§ 100.18 Regulation adoption process.

(a) Proposals for changes to the Federal subsistence regulations in subparts C or D of this part shall be accepted by the Board according to a published schedule. The Board may establish a rotating schedule for accepting proposals on various sections of subpart C or subpart D regulations over a period of years. The Board shall develop and publish proposed regulations in the FEDERAL REGISTER and publish notice in local newspapers. Comments on the proposed regulations in the form of proposals shall be distributed for public review.

(1) Proposals shall be made available for at least a thirty (30) day review by the Regional Councils. Regional Councils shall forward their recommendations on proposals to the Board. Such proposals with recommendations may be submitted in the time period as specified by the Board or as a part of the Regional Council's annual report described in § 100.11, whichever is earlier.

(2) The Board shall publish notice throughout Alaska of the availability of proposals received.

(3) The public shall have at least thirty (30) days to review and comment on proposals.

(4) After the comment period the Board shall meet to receive public testimony and consider the proposals. The Board shall consider traditional use patterns when establishing harvest levels and seasons, and methods and means. The Board may choose not to follow any recommendation which the Board determines is not supported by substantial evidence, violates recognized principles of fish and wildlife conservation, or would be detrimental to the satisfaction of subsistence needs. If a recommendation approved by a Regional Council is not adopted by the Board, the Board shall set forth the factual basis and the reasons for its decision in writing to the Regional Council.

(5) Following consideration of the proposals the Board shall publish final regulations pertaining to subparts C and D of this part in the FEDERAL REGISTER.

(b) Proposals for changes to subparts A and B of this part shall be accepted by the Secretary of the Interior in accordance with 43 CFR part 14.

§ 100.19 Special actions.

(a) The Board may restrict, close, or reopen the taking of fish and wildlife for non-subsistence uses on public lands when necessary to assure the continued viability of a particular fish or wildlife population, to continue subsistence uses of a fish or wildlife population, or for reasons of public safety or administration.

(b) The Board may open, close, or restrict subsistence uses of a particular fish or wildlife population on public lands to assure the continued viability of a fish or wildlife population, to continue subsistence uses of a fish or wildlife population, or for reasons of public safety or administration.

(c) The Board will accept a request for a change in seasons, methods and means, harvest limits and/or restrictions on harvest under this § 100.19 only if there are extenuating circumstances necessitating a regulatory change before the next annual subpart D proposal cycle. Extenuating circumstances include unusual and significant changes in resource abundance or unusual conditions affecting harvest opportunities that could not reasonably have been anticipated and that potentially could have significant adverse effects on the health of fish and wildlife populations or subsistence uses. Requests for Special Action that do not meet these conditions will be rejected; however, a rejected Special Action request will be deferred, if appropriate, to the next annual regulatory proposal cycle for consideration, after coordination with the submitter. In general, changes to Customary and Traditional Use Determinations will only be considered through the annual subpart C proposal cycle.

(d) In an emergency situation, the Board may immediately open, close, liberalize, or restrict subsistence uses of fish and wildlife on public lands, or

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close or restrict non-subsistence uses of fish and wildlife on public lands, if necessary to assure the continued viability of a fish or wildlife population, to continue subsistence uses of fish or wildlife, or for public safety reasons. Prior to implementing an emergency action, the Board shall consult with the State. The emergency action shall be effective when directed by the Board, may not exceed 60 days, and may not be extended unless it is determined by the Board, after notice and public hearing, that such action should be extended. The Board shall, in a timely manner, provide notice via radio announcement or personal contact of the emergency action and shall publish notice and reasons justifying the emergency action in newspapers of any area affected, and in the FEDERAL REGISTER thereafter.

(e) After consultation with the State, the appropriate Regional Advisory Council(s), and adequate notice and public hearing, the Board may make or direct a temporary change to close, open, or adjust the seasons, to modify the harvest limits, or to modify the methods and means of harvest for subsistence uses of fish and wildlife populations on public lands. An affected rural resident, community, Regional Council, or administrative agency may request a temporary change in seasons, harvest limits, or methods or means of harvest. In addition, a temporary change may be made only after the Board determines that the proposed temporary change will not interfere with the conservation of healthy fish and wildlife populations, will not be detrimental to the long-term subsistence use of fish or wildlife resources, and is not an unnecessary restriction on non-subsistence users. The decision of the Board shall be the final administrative action. The temporary change shall be effective when directed by the Board following notice in the affected area(s). This notice may include publication in newspapers or announcement on local radio stations. The Board shall publish notice and reasons justifying the temporary action in the FEDERAL REGISTER thereafter. The length of any temporary change shall be confined to the minimum time period or harvest limit determined by the Board to be

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necessary to satisfy subsistence uses. A temporary opening or closure will not extend beyond the regulatory year for which it is promulgated.

(f) Regulations authorizing any individual agency to direct temporary or emergency closures on public lands managed by the agency remain unaffected by the regulations in this part, which authorize the Board to make or direct restrictions, closures, or temporary changes for subsistence uses on public lands.

(g) You may not take fish and wildlife in violation of a restriction, closure, opening, or temporary change authorized by the Board.

§ 100.20 Request for reconsideration.

(a) Regulations in subparts C and D of this part published in the FEDERAL REGISTER are subject to requests for reconsideration.

(b) Any aggrieved person may file a request for reconsideration with the Board.

(c) To file a request for reconsideration, you must notify the Board in writing within sixty (60) days of the effective date or date of publication of the notice, whichever is earlier, for which reconsideration is requested.

(d) It is your responsibility to provide the Board with sufficient narrative evidence and argument to show why the action by the Board should be reconsidered. The Board will accept a request for reconsideration only if it is based upon information not previously considered by the Board, demonstrates that the existing information used by the Board is incorrect, or demonstrates that the Board's interpretation of information, applicable law, or regulation is in error or contrary to existing law. You must include the following information in your request for reconsideration:

- (1) Your name, and mailing address;
- (2) The action which you request be reconsidered and the date of FEDERAL REGISTER publication of that action;
- (3) A detailed statement of how you are adversely affected by the action;
- (4) A detailed statement of the facts of the dispute, the issues raised by the request, and specific references to any